

EXCERPTED DEPO. TR.
KEVIN DYER

12/12/2016

Kevin Dyer

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UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

MAYRA F. PENA

:

:

Vs.

: C.A. NO.: 15-CV-00179-S-LDA

:

HONEYWELL INTERNATIONAL, INC.:

DEPOSITION OF KEVIN DYER

Monday, December 12, 2016

4:00 p.m. - 6:00 p.m.

Law Office of Mark P. Gagliardi, LLC

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1 out parts faster or slower, could they?

2 A. No.

3 Q. So they had no control as to when the parts were gonna
4 come out. They couldn't control it?

5 A. No, it would just come out like I said on a cycle.

6 Q. The workers, the assembler associates in moulding had
7 no control over the flow of the work; is that correct?

8 A. Flow?

9 Q. Yes.

10 A. Cycle time.

11 Q. Over the cycle time.

12 A. Cycle time.

13 Q. Is that correct? Yes?

14 A. They couldn't control the machinery.

15 Q. And what about in other areas of the plant, could
16 workers control the cycle time in other areas?

17 A. Depends in what area you're in. Some areas were not
18 machine driven. I mean, some areas you just had like a bunch
19 of parts in front of you and you put them together, you know.
20 So some of it was not machine driven.

21 Q. Okay. What about in HEPPA or the respiratory room,
22 was the flow of the work -- could the workers control the flow
23 of the work in that area?

24 A. They could, yes.

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1 trained at what time, I don't know by name. I can't answer
2 that.

3 Q. Who made the decision to implement the cross-training
4 program?

5 A. It was a business director from day one. Data
6 Versatile Law Workforce.

7 Q. Okay. Did they explain to you why they wanted to
8 implement that policy?

9 A. Yes.

10 Q. What was the reason they gave you?

11 A. In case somebody was out, vacation, this, that. We
12 need to move people with business needs. You know, you might
13 get an order that comes in for 50,000 of this and you need to
14 move everybody there tomorrow.

15 Q. Okay. So it wasn't necessarily that you would need
16 somebody to work in a department for permanently but just sort
17 of an as-need basis, correct?

18 A. Yes.

19 Q. Sort of like a substitute teacher in a school?

20 A. Yes.

21 Q. Do you remember who made the decision to assign Miss
22 Pena to work in moulding?

23 A. No, everybody was assigned that was in the different
24 departments going in there.

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1 A. No.

2 Q. Did you notify Mr. Gouveia that Pena did not want to
3 work in moulding?

4 A. Yeah, I probably went to Joe on it.

5 Q. Do you remember any conversations you had with Mr.
6 Gouveia?

7 A. No, I don't.

8 Q. Let's look at the sixth paragraph down, and I'm just
9 going to use people's last names because they're both named
10 Mayra. Did you ask Fermin why Pena did not want to work in
11 moulding?

12 A. I don't remember.

13 Q. Okay. It says here that Fermin claims Pena told her
14 she did not like working there.

15 A. Okay.

16 Q. Is that accurate?

17 A. I don't know. Like I said, I don't remember exactly
18 what she said to me.

19 Q. In your experience as a shift supervisor, is that
20 unusual for an employee to tell a supervisor they don't want
21 to work in an area?

22 MR. MCNAMARA: Objection.

23 A. Yes.

24 Q. In your experience, has that ever happened before

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1 other than this time?

2 A. Not that I can remember.

3 Q. So in 39 years of working as a shift supervisor, have
4 there been any other times other than this where an assembler
5 associate told you they didn't want to work in a department?

6 A. Not that I can remember.

7 Q. Okay. So you would agree with me this was very
8 unusual?

9 MR. MCNAMARA: Objection.

10 A. Yeah, I guess.

11 Q. Okay. It's basically insubordination, right?

12 MR. MCNAMARA: Objection.

13 A. I don't know. That was not brought up, so.

14 Q. Did you ask -- did you go to Pena and ask her why?

15 A. I don't remember, really.

16 Q. You must have been curious, right?

17 A. Um, it depends. If she was screaming and yelling, she
18 would have went straight to Joe's, you know.

19 Q. Fifth paragraph down. On the same conversation, Mayra
20 added that she was diabetic and the breaks were 15 and 30
21 minutes apart from her lunch and she could not be 15 minutes
22 late for her coffee, another 30 minutes late for her lunch
23 break. Do you recall any discussion with Fermin or anyone
24 else about Pena having diabetes?

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1 their lawyer, upper management ever say to you, "Kevin, we
2 want you to try to find an accommodation for Mayra Pena's
3 mental impairment"?

4 A. No.

5 Q. Was it feasible for Honeywell to just keep Mayra Pena
6 in HEPPA and leave her there --

7 MR. MCNAMARA: Objection.

8 Q. -- in 2013?

9 A. Um, from a business standpoint? I mean, we had to be
10 versatile and move people to different places and to fairness
11 of all other employees that are crossed trained. I mean, you
12 know, no, we never left anybody in one area working all the
13 time.

14 Q. But my question is, was it feasible to do that?

15 A. Was it feasible?

16 Q. Yes.

17 MR. MCNAMARA: Objection.

18 A. I don't know. I don't know.

19 Q. Well, what happened in that two week period from
20 February 21st to March 7th when Mayra Pena refused to work in
21 moulding?

22 A. I don't know where she was located. I can't remember
23 that.

24 Q. Isn't it true that you took somebody else and put them

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1 A. Because I didn't.

2 Q. Did Mr. Gouveia ask her?

3 A. Don't know.

4 Q. Okay. To your knowledge, did any employees complain
5 about Mayra Pena not working in moulding?

6 A. Um, I heard it. Rumors to it, let's put it that way,
7 yes.

8 Q. You heard it?

9 A. Yes.

10 Q. Do you know who complained about her not working in
11 moulding?

12 A. No, because it was like secondhand information. It
13 was just like rumors to it.

14 Q. Who told you that? Who did you hear these rumors
15 from?

16 A. Um, I heard it once from I think Sandra Sical told me
17 once that she was telling everybody in the building that she
18 didn't want to work in moulding. I said to ignore it. It's
19 secondhand talk. That's all it is.

20 Q. Did these rumors circulate after February 21st, 2013?

21 A. I don't know what dates it was.

22 Q. Well, did the rumors circulate after she refused to
23 work in moulding?

24 A. Again, I don't know if it was during or after. I'm

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1 in moulding someone other than Mayra Pena?

2 MR. MCNAMARA: Objection.

3 A. I don't know that. I don't know.

4 Q. Well, didn't you testify that the company had to put
5 somebody in moulding and couldn't leave --

6 A. For the one day we talked about when she had a
7 problem. That's what would have happened. For one day we
8 would have done that.

9 Q. Well, for that two-week period, was there just one
10 less person working in moulding?

11 A. I don't know.

12 Q. Didn't you testify that was not possible, you always
13 had to have moulding filled?

14 A. You do have to have it always filled. But one day you
15 might have 25 machines going. The next day it might be 24.
16 It could be 23. It could be 22. You know, it changes daily
17 on what's going on. So the machines do run, yes. They don't
18 stop.

19 Q. Right. And for that two-week period, Honeywell just
20 took another worker other than Mayra Pena and put them in
21 moulding, right?

22 MR. MCNAMARA: Objection.

23 A. I don't know.

24 Q. You don't know?